

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

J.K. INTERNATIONAL PTY. LTD.,

Plaintiff

- against -

07 Civ. 7328 (SHS)

ECF CASE

OLDENDORFF CARRIERS GMBH & CO.,

Defendant

DECLARATION OF VAMAN PRABHU

EXHIBIT 10

This contract in two originals is made on 2nd June, 2007 between J.K. International Pty Ltd (hereinafter called JKIL) having its office at A9, Sescotand Suite, GPO 1581, Brisbane, Australia and UNITED SHIPPERS LIMITED, (hereinafter called USL) having its office at United India Building, II Floor, Sir. P. M. Road, Mumbai 400 001 for handling of chick peas coming into MBPT on the mother vessel MV Fredrick Oldendorf

USL agrees to perform the following scope of work for JKIL :

1. SCOPE OF WORK :

a. Port Services :

- Complete onboard stevedoring
- Discharging of cargo at the jetty with excavators
- Inter carting of cargo to storage areas within port premises.

2. RESPONSIBILITIES

a. USL will ensure

- Will strictly work within the measures of laid by Pollution Control Board.
- USL shall be liable for any damage to mother vessel (s) caused by its equipment/ personnel.
- USL to furnish No Damage Certificate, duly signed by Master of vessel to JKIL upon completion of discharge.

b. JKIL will ensure :

- Identification and making available adequate jetty discharge points / warehousing in MBPT.
- Arranging customs / port documentation.
- Port / jetty rental charges will be to JKIL account
- Documentation and payment of all statutory port charges such as customs / Port OT berth hire, port dues etc.
- Vessel will arrange power / appropriate gear on board suitable for grab discharge.

3. Discharge rates :

To enable USL to discharge the vessel fastest possible, JKIL / their representatives / business associates on shore to assist and ensure barge turn around in maximum 96 hours i.e the barge to take 96 hrs maximum from the time it completes loading at the mother vessel, proceeds to the designated Mumbai port berth, pilotage, discharge at the berth and returns back to the mother vessel and along side / ready for loading of cargo at the mother vessel.

USL representatives to arrange to maintain a separate record of the barge timings to be counter signed by JKIL / their representatives / business associates for each barge trip.

In case, the turnaround time is more than 96hrs, JKIL to pay demurrage at the rate of Rs.100,000 PDPR per barge.

 JK INTERNATIONAL PTY. LTD.
General Manager





All holidays impacting work at port and losses resulting there from will be to JKIL account.

4. **PRINCIPAL TO PRINCIPAL :**

It is expressly agreed that USL is an independent contractor and not an employee or agent of JKIL. The services rendered to JKIL under this agreement are on principal to principal basis and USL shall not have authority to enter into contracts, commit or incur any liability on behalf of JKIL or otherwise act in any way as a clearing / forwarding and / or customs house agents of JKIL.

5. **REMUNERATION :**

For services rendered by USL to JKIL as per the scope of work detailed above in clause 1, JKIL will pay USL

For Scope of work, detailed under 1 a Rs. 35 PMT
plus applicable service tax

Any and all lighterage charges to / on the Mother Vessel, cargo charges and all statutes levied by MBPT will be JKIL account.

6. **PAYMENT TERMS :**

Payment for the handling services rendered by USL shall be made as follows:

1. For 10,000 MT in advance with first advance to reach USL prior to the arrival of the vessel,
2. On completion of discharge of 9,000 MT M/s. JKIL will release next payment for 10,000 MT to USL, which will continued until vessel completion.

In case JKI payments are delayed, after allowing a grace period of 5 days, to the same an interest of 15% p.a. will be levied by USL to JKI for the amount so delayed.

USL holds the right to withhold the cargo of JKI in case of delay of more than 5 days in payments (after the grace period of 5 days expires for point b - d above), until the entire amount due to USL is paid by JKI to USL.

The essence of this contract is timely payment by JKI to USL and the satisfactory performance of USL as per the terms and conditions of this agreement. Banking details of USL for remittance of payment.

INDUSIND BANK LTD.
ADD : NARIMAN POINT BRANCH
3RD FLOOR, HOECHEST HOUSE,
MUMBAI 400 021 - INDIA
SWIFT CODE : INDBINBBON ACCOUNT NO. 91 USD 234542 - 1121
WITH UNION BANK OF CALIFORNIA INTERNATIONAL, NEW YORK,
SWIFT CODE: BOFCUS33

 J.K. INTERNATIONAL PTY. LTD.
General Manager



BENEFICIARY NAME: UNITED SHIPPERS LIMITED
 BENEFICIARY A/C NO : 0006 552896 060.

7. **INSURANCE**

The responsibility of USL is to ensure that USL infrastructure is adequately insured and premium is paid upto date, whereas the responsibility of JKI is to ensure that their cargo is adequately insured. USL shall furnish evidence of insurance cover for their equipments in use.

8. **DISCLAIMER OF LIABILITY ON ACCOUNT OF EMPLOYEES EMPLOYED BY USL:**

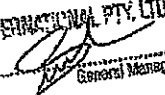
JKI shall not be responsible for any act and/or default by any employees of USL, its servants, officers, agents representatives, notwithstanding anything in the contract or enactment thereof. USL shall in all respects be responsible for any persons employed by USL for the purpose of all statutory and other obligations towards such employee. Such employee shall in no event and under no circumstances be employed on behalf of JKI who disclaim all liability and responsibility whatsoever arising (whether under or not) in connection with such employees and/ or employment contract.

9. **LIABILITY OF PERSONS:**

USL shall be liable for and shall indemnify and hold harmless JKI, its affiliates and or its employees and officers for all the claims, losses, liabilities, costs, damages or expenses, whether consequential, direct or indirect and of every kind or nature brought against JKI or any of them by any third party arising out of USL negligence.

10. **FORCE MAJEURE:**

If either party is unable to perform or comply in full or part with any obligations or conditions of the contract due to contingencies beyond the control of either party and without its faults or negligence, including but not limited to fire, Acts of God, Flood, Cyclones, earthquakes or other natural calamities, war like conditions, strikes lock-outs or labour disturbances, Government actions, Civil commotion, Acts of foreign government, Acts of the public enemy, explosions or accidents to storage depots, accidents at or closing of navigational or transport mechanism including ports & railways, the affected party shall give written notice to the other party of such Force Majeure within 48 hours after the arising of the Force Majeure conditions and such affected party shall be relieved of liability and shall suffer no prejudice for failure to perform their obligations during such period. In the event that the said conditions of Force Majeure and the suspension of obligations shall continue in excess of 30 days, the contract may be cancelled at the option of the either party.

JKI INTERNATIONAL PTY. LTD.

 General Manager





However lack of support of Controller of Port / Landing Site, Govt authorities and / or non availability of competent railway rakes, trucks, handling equipment or their break down shall not constitute for Force Majeure.

11. ARBITRATION

Any dispute or difference between the parties including that of compensation on termination of the contract, which are not settled amicably will be referred to arbitration by any such persons with a legal background as specified below. The Arbitration as per the provisions of the Indian Arbitration & Conciliation Act 1996 (or any statutory modifications or re-enactment thereof for the time being in force).

USL and JKI have right to appoint their arbitrator from the panel of arbitrators issued by Indian Council of Arbitration. The two arbitrators so appointed by USL and JKI shall appoint a third arbitrator whose decision shall be final and binding on both the parties (USL and JKI).

The arbitration proceedings shall be held in New Delhi and shall be conducted in English Language. The parties agree that the Hon'ble High Court of New Delhi shall have jurisdiction in all matters relating to the arbitration proceedings.

12. ALTERATION / AMENDMENTS :

Any modifications / alteration / amendment in the said contract by the way of letter or any addendum shall form and part and parcel of the contract. Corrections if any in the contract shall only be accepted if duly signed and stamped adjoining the correction / amendment made, by both the parties i.e. USL and JKI.

13. ASSIGNMENT

Neither USL or JKI shall assign the whole or any part of its rights and obligations under this agreement without the written consent of the other party.

14. CONFIDENTIALITY

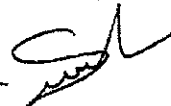
Each party of this agreement shall treat its terms as confidential and shall not disclose them to any third party (other than to its professional advisers or as required by law) without the written consent of the other party.

15. HARDSHIP

At the request of either party JKI and USL will meet to discuss any necessary modification of this contract in cases where the continues compliance with all or any part of this contract would cause hardship to one or the other party of the parties as a result of unforeseen circumstances over which the party has no control and could not foresee before the date of signature of this contract and which occur after that date other than those which can be imputed to the parties themselves.

 **JKI INTERNATIONAL PTY. LTD.**
General Manager





16. NOTICES

Unless otherwise provided herein, any notice required or permitted hereunder shall be in writing and shall be transmitted by facsimile, or by mail, postage prepaid, addressed as follows:

To USL:
MR. CAPT SANJAY GOEL
GENERAL MANAGER
UNITED SHIPPERS LIMITED
United India Building, Second Floor
Sir P M Road, Fort
Mumbai 400 001

Tel: +91 22 266 2232 / 2662040
Fax: +91 22 66668392/393


To:
Mr Sandeep Mohan
J.K. INTERNATIONAL PTY LTD
49 SUSCATAND STREET, ROCKLEA QLD 4106
GPO BOX 1981 BRISBANE QLD 4001, AUSTRALIA
Tel: +61 7 3274 1023 (6 LINES)
Fax: +61 7 3274 1367

In witness whereof, this agreement as of the day and year above first written.

For and on behalf of:
UNITED SHIPPERS LIMITED

Sunil S Parakh
Managing Director



For and on behalf of:
J K International Pty Ltd

General Manager
Mr Sandeep Mohan

Date: _____

Witness: _____

Date: _____

Date: 2/6/07

Witness: _____

Date: _____

